Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Section 3(n) and 332 of the Communications Act	)	GN Docket No. 93-252
	)	
Regulatory Treatment of Mobile Services	)	

To: The Commission

REPLY COMMENTS OF GLOBAL CELLULAR COMMUNICATIONS, INC., AND JEAN M. WARREN

Global Cellular Communications, Inc. ("GCCI") and Jean M. Warren (collectively, "Nationwide Licensees"), by their undersigned counsel, hereby file Reply Comments in accordance with the Commission's Further Notice of Proposed Rulemaking ("Further Notice") in the above-captioned proceeding.[1]

In their Comments filed in this proceeding on June 20, 1994,[2] the Nationwide Licensees registered their opposition to the Petition for Declaratory Ruling and Request for Rule Waiver filed by SunCom Mobile & Data, Inc. ("SunCom Request"). Further Notice at ¶38. Based upon their review of the comments in this proceeding filed by parties who expressed interest in the 220 MHz service, Nationwide Licensees have identified the following topics that merit attention in their Reply Comments: (1) whether the Commission should grant or deny the SunCom Request, which seeks

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[1] Further Notice of Proposed Rulemaking, GN Docket No.93-252, FCC 94-100, released May 20, 1994.

[2] GCCI and Warren timely filed Comments herein on June 20, 1994.

regional licensing of 220 MHz service with an eight-year construction timetable or, alternatively, allow regional networks to evolve naturally in the marketplace under current rules; (2) whether there is any need for an extension of the current local licensee construction deadline of December 2, 1994; (3) whether there should be any construction extension for systems above "Line A"; and (4) the need to allow present licensees to modify their licenses before the Commission entertains applications for new licenses in the 220 MHz service. Each of these topics is addressed below.

I. 220 MHz Network Aggregation Can Occur without Any Change in the Rules or the Licensing Scheme

Almost all parties commenting on the SunCom Request opposed Suncom.[3] The premise of SunCom's Request is that 220 MHz systems can be viable *only* if they are configured as regional (or larger) networks and that there is no place for stand-alone local five-channel trunked systems. This premise is false. Numerous local five-channel trunked systems are operating on a stand-alone basis, including those that are being operated in classic private radio fashion, *i.e.*, for meeting the internal dispatch communications needs of the licensee itself. The SunCom Request should be denied

[3] The only party in favor of granting the relief requested by SunCom was Simrom, Inc. ("Simrom") at 9. Simrom or its affiliate, Roamer One, filed for hundreds of licenses, knowing at the time that all would likely be granted simultaneously and have concurrent deadlines. Simrom is hardly in any position to elicit sympathy from the Commission for its current situation. To grant any further extension to Simrom would punish those sincere applicants who applied only for what could be timely constructed, and would reward speculation.

by the Commission on the grounds that it is unnecessary and would be disruptive to the newly established 220 MHz service. Aggregation of licenses should be allowed to evolve naturally over time, as the market for 220 MHz service develops and matures. Such aggregation already is contemplated by Section 90.739 of the rules *after* a system has been constructed. The Commission should continue to require that 220 MHz systems be built in accordance with an appropriate construction deadline,[4] and that aggregation of licenses be permitted *after* construction.

II. There Should Be No Further Extension of the Local Licensee Construction Deadline

The entire 220 MHz industry long ago knew who the local lottery winners were. See Public Notice, DA 93-71, released January 26, 1993. The entire industry knew in February, 1994 that the Evans case would likely be resolved in the near future. The Commission gave all local licensees a fresh eight-month construction period once the Evans case was resolved. See n.4, supra. All of these licensees knew back in April, 1991 that they would have only eight months to construct all of their licensed systems. To change the rules now would unfairly punish those who played by the old rules (and applied only for what they could timely construct) and reward the speculators who showered the FCC

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[4] As discussed by the Nationwide Licensees in their Comments at page 5, n.5, construction deadlines should run from April 1, 1994, when the uncertainty generated by the Evans v. FCC court case was removed. The Commission already has done so for local 220 MHz licensees. See, Order, DA 94-276, released March 30, 1994. A similar order, granting similar relief, should be issued for Warren.

with reams of applications.[5]

The Nationwide Licensees do not object to extensions of time for those local licensees that meet the traditional grounds for extension in private radio -- *i.e.*, a firm equipment order was placed with a manufacturer of type-accepted equipment at least ninety days prior to expiration, and that manufacturer has advised in writing that it is unable to timely fill the order. The Nationwide Licensees oppose any extension for those who were unwilling to make such a financial commitment.

III. The Commission Should Grant Relief for 220 MHz Licensees North of Line A

Simrom urged the Commission to resolve the dilemma presently confronting 220 MHz licensees of systems located north of Line A near the Canadian border. The Nationwide Licensees concur with Simrom on this point. Because negotiations between the U.S. and Canadian governments over the use of the 220 MHz spectrum near the Canadian border have not yet been completed, these licenses are conditioned on the outcome of those negotiations, and could be substantially modified or made secondary to Canadian operations in the 220 MHz band. Thus, local licensees north of Line A are still confronted with an Evans-type uncertainty which could entirely void their licenses.

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[5] The Private Radio Bureau, unlike other bureaus within the FCC, has never required local applicants to have either financing or reasonable assurance of site availability. The *quid pro quo* was that extensions of time to construct are simply not granted without extraordinary showings. No basis has been provided for disrupting this regulatory balance.

Under such circumstances, the Commission should grant an indefinite extension of the construction deadlines for 220 MHz authorization north of Line A, until the U.S.-Canadian negotiations are concluded. Nationwide Licensees urge the Commission to conclude the negotiations with Canada expeditiously and, in that regard, recommends that the Commission use these same formulas as were used in the recent agreement reached with Mexico regarding frequencies that are secondary an those that are primary. Use of the same formulas for 220 MHz operations near the Canadian border as were used for those near the Mexican border will result in uniformity within the U.S. for operations on 220 MHz channels.

IV. The Commission Should Allow Existing Licensees to Modify Their Licenses Before New Licenses Are Granted

Numerous local 220 MHz licenses have received Special Temporary Authority ("STA") to modify their facilities, primarily to relocate transmitter sites. STAs were necessary because the Commission has not yet reopened the filing window for any further 220 MHz applications, including those for modification of existing licenses. The Commission should allow those local licensees who have received STAs and timely constructed pursuant thereto to file applications for modification of their licenses to correspond to the STAs prior to entertaining applications for new 220 MHz facilities.[6] Otherwise, it is possible that there will be

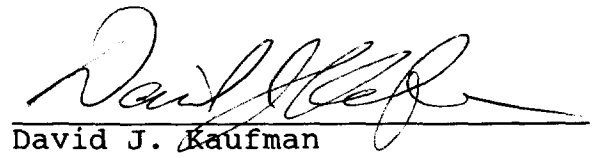
[6] Those local licensees seeking STAs are the same local licensees that are constructing timely, without seeking extension of construction deadlines. These people should be rewarded for their pioneering efforts to develop 220 MHz, not punished. It (continued...)

conflicting applications for new 220 MHz systems which could bar the use of appropriate transmitter facilities for existing 220 MHz licensees. Nationwide Licensees agree with AMTA[7] that the Commission should prohibit the filing of any new 220 MHz applications until after applications for modification of existing facilities have been filed and acted upon.

For the foregoing reasons, Nationwide Licensees respectfully request the Commission to adopt the positions advanced by Nationwide Licensees in their Comments and Reply Comments in this proceeding.

Respectfully submitted,

GLOBAL CELLULAR COMMUNICATIONS, INC., AND JEAN M. WARREN

By: 

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[6](...continued)
would be the height of regulatory absurdity if local licensees that timely constructed at STA locations were later unable to obtain a permanent modification due to the existence of other, unconstructed licenses which were given extensions beyond December 2, 1994. The more licenses that are forfeited for failure to timely construct, the easier it will be to grant the modification applications of the STA-constructed systems.

[7] See AMTA Comments at 23-24.